



#6/Recons. drawing 2/26  
Trademark 12/11/03  
Attorney's Docket No.: 10559-368001 / P10174

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Williams  
Serial No. : 09/737,158  
Filed : December 14, 2000  
Title : CONTROL OF DEVICE-DRIVER PERSISTENCY

Art Unit : 2126  
Examiner : Truong

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Technology Center 2100

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REPLY TO ACTION OF OCTOBER 3, 2003

In reply to the Office Action of October 3, 2003, Please consider the following remarks.

**The Admitted Prior Art**

According to the Examiner, what the admitted prior art teaches is

*"an intermediate driver (an intermediate driver, page 3 to page 4), memory (memory, page 4), a persistency (persistent mode, page 4, ln 10-24), a device driver (a device driver, page 4).*

As best understood from the office action, all that the admitted prior art teaches is that there exist intermediate drivers, memory, and persistency.

In rejecting the claims under section 103, the Examiner states that "APA does not explicit teach the term controlling a persistent." As best understood, this means that the admitted prior art fails to teach the second step of claim 1, namely the step of

*"controlling a persistency of a device driver present in memory on the basis of whether said intermediate driver is present in memory."*

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December 1, 2003  
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The Examiner also states that "APA does not explicit teach the term 'determining whether an intermediate driver is present.'" Again, as best understood, this means that the admitted prior art also fails to teach the first step of claim 1, namely the step of

*"determining whether an intermediate driver is present in memory."*

Apparently, the admitted prior art teaches neither the first nor the second step of claim 1. Therefore, in order to sustain a rejection under section 103, both of these steps must be taught by *Bullough*.

#### **The *Bullough* patent**

*Bullough* teaches a system in which a communication application interfaces with a port driver router **204**, which itself interfaces with the port drivers **206, 208, 210**. As a result, the communication application need not interface directly with the port drivers **206, 208, 210** themselves. This is advantageous because in the absence of the port driver router **204**, the communication application would have to know how to speak the language of each individual port driver **206, 208, 210**.

There is no discussion in *Bullough* of anything resembling the setting of a persistency status of the port drivers **206, 208, 210**. Nor is there any discussion in *Bullough* of controlling persistency of a particular port driver **206** on the basis of whether that port driver **206** is present in memory. In fact, *Bullough* lacks discussion of any procedure for installing or de-installing the port driver router **204** or the port drivers **206, 208, 210**.

Despite the deficiencies of *Bullough*, the Examiner proposes to combine *Bullough* with the admitted prior art. As motivation for this combination, the Examiner offers the fact that to do so would have been obvious "to eliminate the need to rewrite communication applications."

The claimed invention is not intended to be a way to eliminate the need to rewrite communication applications. Device drivers, which are within the admitted prior art, have been able to carry out this function for some time. Applicant's invention is directed toward controlling the persistency of one of these known device drivers on the basis of whether an

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intermediate driver is in memory. It is therefore unclear what the Examiner's proposed motivation has to do with the claimed invention.

Applicant submits that the present section 103 rejection is improper both because the combination of references fails to teach the claimed invention and because there is no motivation to combine the references. Accordingly, Applicant requests reconsideration and withdrawal of the section 103 rejection of claim 1 and claims dependent thereon.

The section 103 rejections of the remaining independent claims are improper for at least the same reasons as set forth above. Accordingly, Applicant requests reconsideration and withdrawal of the section 103 rejection of the remaining independent claims and all claims dependent thereon.

No additional fees are believed to be due in connection with the filing of this response. However, to the extent fees are due, or if a refund is forthcoming, please adjust our deposit account 06-1050.

Respectfully submitted,

Date: Nov. 25, 2003



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